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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/076,591 | 02/19/2002 | Guy Itzkovitch | P 265363 Z-3017REG | 2282 |
| 909 | 7590 | 04/22/2005 | EXAMINER | |
| PILLSBURY WINTHROP SHAW PITTMAN, LLP | | | BUI, LUAN KIM | |
| P.O. BOX 10500 | | | ART UNIT | |
| MCLEAN, VA 22102 | | | PAPER NUMBER | |

3728

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,591

Applicant(s)

ITZKOVITCH, GUY

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-18 and 20 is/are allowed.
- 6) ☒ Claim(s) 1, 9 and 19 is/are rejected.
- 7) ☒ Claim(s) 2-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 9 and 19 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Vasudeva (5,887,715) in view of Rysgaard et al. (6,193,062; hereinafter Rysgaard'062).

Vasudeva discloses a tool container in the embodiment of Figures 7-8, comprising a case portion (1) having a storage space and a handle (2) and a cover portion (3, 46) pivotally attached to the case portion. The cover portion having an elongated storage space (41, 90) and a secondary cover portion (42) movably mounted with respect to the cover portion for covering the elongated storage space. Vasudeva also discloses the other limitations of the claims except for the elongated storage space being integrally formed with the cover portion and the handle being connected to the cover portion in lieu of the case portion. Rysgaard'062 shows a container (20) comprising a case portion (24) and a one-piece cover portion (25) having an elongated storage space integrally formed in the cover portion (Figure 1). It would have been obvious to one having ordinary skill in the art in view of Rysgaard'062 to modify the tool container of Vasudeva so the elongated storage space is integrally formed in the cover portion to reduce the cost of manufacture and because it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). It also would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Vasudeva to provide the

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handle in the cover portion to facilitate carrying the tool container and since the selection of the specific location for the handle such as connected to the cover portion as claimed or to the case portion of Vasudeva would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's specification does not state that using the specific location as claimed solves any particular problem or yields any unexpected results. The elongated storage space of Vasudeva is capable of holding a level and the weight of the secondary cover portion is tended to hold the secondary cover portion in its closed position (see Figure 18).

Allowable Subject Matter

3. Claims 2-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 10-18 and 20 are allowed.

Response to Arguments

Applicant's arguments filed on 3/9/2005 have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to Vasudeva on page 7 of the remarks are noted. They are not persuasive because when the body 46 attached to the lid 3 (final product) then it

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becomes a one-piece cover portion since whenever the lid moves from its closed position to an open position or via versa then the body moves with it and the secondary cover portion is pivotally mounted to the one piece cover portion. However, the Examiner is agreed that the body 46 and lid 3 are not formed from one piece as claimed. The reason for modifying as indicated above. Applicant argues that “the body 46 is not pivotally attached to the main box portion 1” is noted. This is not persuasive because the lid 3 is pivotally attached the main box portion 1 and the body 46 attached to the lid 3. Therefore, the body 46 is pivotally attached to the main box portion. Applicant argues “the box shaped storage container 41 and recess 90 are not an elongated storage space” is noted. This is not understood because the container comprises a rectangular shaped and the rectangular shaped is considered as the elongated storage space as claimed.

Applicant’s arguments with respect to Vasudeva on page 8 of the remarks are noted. They are not persuasive because it would have been obvious one of ordinary skill in the art in view of Rysgaard'062 to modify the tool container of Vasudeva so the container 46 is integrally formed in the cover portion 3 to reduce the cost of manufacture and because it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Marilyn Watts at (571) 272-4398.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
April 17, 2005



Luan K. Bui
Primary Examiner